

**FILED IN CHAMBERS**

IN THE UNITED STATES DISTRICT COURT **U.S.D.C. - Atlanta**  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

**MAY 06 2016**

EDGAR CINTORA-GONZALEZ,

Movant

v.

UNITED STATES OF AMERICA,

Respondent

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CRIMINAL ACTION FILE NO.  
1:12-CR-078-3-ODE-RGV

CIVIL ACTION FILE NO.  
1:15-CV-3187-ODE-RGV

James M. Hatten, Clerk  
*Amcane*  
Deputy Clerk


ORDER

This criminal case is before the Court on the Final Report and Recommendation of United States Magistrate Judge Russell G. Vineyard filed November 23, 2015 ("R&R") [Doc. 347]. No objections have been filed.

In the R&R, Judge Vineyard recommends that Movant's § 2255 motion be dismissed as time barred. Judge Vineyard also recommends that a certificate of appealability ("COA") be denied. Specifically, Judge Vineyard found that Movant has not presented anything to suggest that the circumstances set forth in 28 U.S.C. § 2255(f)(2)-(4) justify equitable tolling and Movant does not contend that he is actually innocent. In addition, a COA should be denied because it is not debatable that the § 2255 motion is untimely.

The Court having read and considered the R&R and noting the absence of any objections, it is hereby ADOPTED as the opinion and order of the Court. For the reasons set forth in the R&R, Movant's § 2255 motion [Doc. 328] is DISMISSED as time barred, and a COA is DENIED.

SO ORDERED, this 5 day of May, 2016.

  
ORINDA D. EVANS  
UNITED STATES DISTRICT JUDGE